



## VIRGINIA CHILD SUPPORT GUIDELINE REVIEW PANEL: 2005

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*Senator Frederick M. Quayle, Chairman*

*Joseph S. Crane, DCSE representative & staff director*

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### MEETING MINUTES

**April 19, 2005 (Approved by Motion: June 8, 2005)**

**House Room C - General Assembly building**

**Richmond, Virginia**

**The following members were present:** Senator Frederick Quayle; Delegate Michele McQuigg; Delegate William Barlow; Judge Wilford Taylor; Judge Anne Holton; Ms. Amy Atkinson; Richard Byrd, Esq.; Mr. Joseph Crane; Lawrence Diehl, Esq.; Mr. Brian Hawkins; Mr. Robert Ingalls; Ms. Deborah Parham; Janipher Robinson, Esq.; and Ms. Leslie Sorkhe.

**The following member was absent:** Delegate Clifford Athey.

**Guests present:** Secretary of Health & Human Resources (HHR) Jane Woods; Deputy Secretary of HHR Dean Lynch; Virginia Department of Social Services (VDSS) Commissioner Anthony Conyers; VDSS Deputy Commissioner and Director, Child Support Enforcement Nick Young.

The first meeting of the 2005 Child Support Guideline Review Panel was held on Tuesday, April 19, 2005 at 9:30 a.m. in House Room C of the General Assembly building in Richmond, Virginia. Mr. Joseph Crane, acting as chair *pro-tempore* at the request of the Chairman, called the meeting to order, welcomed members and guests, and noted that Senator Frederick Quayle, arriving later in the morning, would serve the Panel as Chair.

Mr. Crane introduced Secretary of HHR Jane Woods, who thanked the Panel for its time and attention, and pledged to support the Panel in all its efforts.

Mr. Crane introduced Anthony Conyers, Commissioner of the VDSS, who welcomed the Panel members, and urged them to do what is best for the families and children of Virginia.

Mr. Crane introduced Nick Young, Deputy Commissioner and Director of Child Support

Enforcement, who presented an overview of child support enforcement in Virginia, and answered background questions for Panel members. Mr. Young urged the Panel to emphasize fairness for both parents, and to consider the perceptions of both custodial and noncustodial parents as to fairness issues in the content and application of the Guideline.

Senator Frederick Quayle arrived at 11:00 a.m. and assumed the chair.

Following an explanation of administrative matters for its conduct of meetings and related matters, the Panel discussed building a schedule for meeting dates, and how best to incorporate public input into its deliberations. A consensus was reached to incorporate into future Panel meetings at least two public input sessions, one near the beginning of the process in order to help the Panel clarify its agenda, and a second nearer the end of the process to gain help with the finalization of the Panel's decisions and recommendations. Chairman Quayle also stressed that written comments from any member of the public are welcome at any time until the Panel has made its determinations, and that such comments would be distributed to all Panel members.

Chairman Quayle noted for the record that a quorum will constitute eight or more members. At this point and as such questions arose throughout the rest of the meeting, the Division of Child Support Enforcement was asked to provide various elements of data and background material requested by Panel members, if available.

#### **Panel Member Agenda Concerns:**

Chairman Quayle next requested that each member of the Panel introduce him/herself for the benefit of all members, and state any goals each might have for the Guideline review. Chairman Quayle called on members in the following order:

Delegate Barlow hoped to improve the relationship between the noncustodial parent and the child, noting this relationship seemed key not only to adequate financial support, but also to the ultimate well-being of the child.

Delegate McQuigg expressed the desire to make the Guideline fair and equitable, and to ensure the assumptions underlying the Guideline are accurate. She expressed concern about the appropriate application of the deviation factors. She perceives the primary issue to be not support *per se*, but the child. She also expressed an interest in investigating interest charged and the possible elimination of bad debts, believing these to be sources of lingering bitterness for all involved.

Senator Quayle hoped to improve the relationship between the custodial and noncustodial parents and the child, in part, to take the child out of the line of fire. He pointed out the current Guideline was adopted in the 1980's based largely on data from the 1970's. While this gives him pause, he also noted there was a strong argument that rising incomes make the current Guideline somewhat self-correcting. Whether that is the case or not, his desire is to see that the Guideline is fair to both parents and especially to the child.

Ms. Atkinson wanted to ensure the Guideline is fair and equitable to the child and that the child receives the financial support necessary to meet basic needs. She underscored the importance of communicating closely with Delegate Terry Kilgore's subcommittee on Civil Law in order to give the Panel's recommendations the highest possible prospect for success in the General Assembly. She also expressed interest in having the custodial and noncustodial parents provide health insurance for the child, and in particular to track new federal requirements that may be forthcoming in this regard.

Mr. Byrd proffered an initial proposal for the Panel's eventual consideration to update the Guideline by adjusting it for inflation. He provided a partial sample table for review. He believes other recent Guideline studies to have been flawed (including the Schedule proposal of the 2001-2002 Panel), and believes the current Virginia model is basically good, requiring only updating to recognize inflation. He plans to offer such a revision proposal for consideration in the next Panel meeting.

Mr. Crane noted the issue of fairness is something of a will-o-the-wisp that may be difficult to achieve in any practical application, and his main concern was how any solution might be ultimately administered. Assuming "fairness" can be defined in a way acceptable to the Panel majority, it will be difficult to balance that with practicality in application: e.g., trying to blend the previously-expressed and published viewpoints of Messrs. Byrd and Ingalls. Regardless, the Panel's focus must be the best interests of the child.

Mr. Diehl favors retaining income shares as an approach, but wondered if the current Schedule numbers are fair and accurate. He pointed out there has been no real study on costs of raising children in two households. While he shares some of Mr. Ingalls' concerns, he opposes having the Panel touch shared custody, noting it is not practically workable to have a tailored Guideline per case. He believes that the dollar amounts in the current Guideline need some work, perceiving that they seem generally too low.

Mr. Hawkins wants to improve mutual communication and discuss perceived inequities---for example, concerning how arrearages work---as they relate to the dynamics of being a young, poor, uneducated, inexperienced or incarcerated father. His main desire relative to the Panel's review, is to study the impact of the low income portion of the Guideline, and to be a voice for those fathers. Improving the lives of fathers and how to get them emotionally connected and more involved with their children, and how not to destroy fathers simply in pursuit of money, are his main concerns.

Judge Holton is interested in focusing on the low income portion of the Guideline, and emphasized it must be simple, straightforward and predictable---especially to low income and less educated people---and practical to apply. If people at the lower income levels know what to expect, and there are not many deviations from the standard, then there is much greater likelihood of acceptance by both sides. Her second desire is that the Panel focus on no more than three or four issues, citing her belief that this will increase prospects for success and impact.

Mr. Ingalls stated concerns about Mr. Byrd's proposal for updating the Guideline to reflect

inflation. He does not favor applying a general inflation factor, suggesting there are variables in a child support case that may render a general inflation factor irrelevant. His main concern is with the math for shared custody support, which he believes to be discriminatory, and which he believes caters to one parent and ultimately removes the voice of the other parent in the courtroom. He would like the Panel to focus on what is the child's need in both households, and to provide a process that encourages both financial support and parental involvement with the child. In that respect, visitation is a major issue for noncustodial parents.

Ms. Parham cited her personal situation to underscore the difficulties custodial parents face when dealing with both a recalcitrant noncustodial parent and an often indifferent bureaucracy. Her testimony implied the need for a more supportive, customer service oriented child support system that could provide a clearer understanding of the rights and responsibilities of custodial parents, and a Guideline that will enforce a minimum financial responsibility from the noncustodial parent, regardless of where he/she may reside.

Ms. Sorkhe agreed with Mr. Byrd that Virginia's current Guideline, in general, works, and that there is no need to reinvent the wheel, but the wheel could be tweaked a bit for fairness and cost of living adjustments.

Judge Taylor had no single agenda item to impart, but cited the most important dispute is resolving what happens to the child. Who should raise the child? How will that child be supported? Is the Guideline amount enough, and is the allocation fair? Compliance is extremely important, so fairness must be perceived by all.

Ms. Robinson left the meeting early because of a conflicting appointment, and was not able to provide comments.

### **Prioritizing Panel Issues**

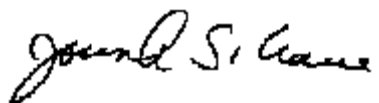
Chairman Quayle next moved to begin the process of enumerating and eventually prioritizing the issues the Panel would ultimately focus on. He started the process by citing some issues he believed apparent after hearing from the goals of each of the Panel members. He then opened the floor to additional issues from all Panel members. The resulting list is not definitive, but simply a starting point, and does not preclude any other issues that may be brought before the Panel. The initial issues---in the order they were raised---and the members raising them, were as follows:

- 1) Senator Quayle – Mr. Byrd's proposal to adjust the current Guideline to reflect inflation. Would like to see an expansion [a complete version of] Mr. Byrd's proposed new Guideline table for discussion.
- 2) Senator Quayle – Largely pertaining to Rob Ingall's questions: is the overall rate of inflation truly reflective of child support / household costs for Guideline purposes? Perhaps some experts on this matter could come before the Panel in future meetings.

- 3) Senator Quayle - Is income shares the best approach for devising the child support Guideline? The state of Georgia has recently passed new legislation, and has been at the center of debate over a system that is similar to Virginia's, during which alternative approaches have been exhaustively debated and reviewed. Perhaps the Panel could invite experts from Georgia to share insights regarding the viewpoints in Georgia. [Editor's note: contact has subsequently been made with the attorney in the GA Dept. of Law who has dealt with most aspects of the challenges to and court actions concerning their Guidelines: she is willing to appear and interact with the Panel at the next or some other meeting, as desired]
- 4) Senator Quayle - Concern with the low income portion of the Guideline, and low income people who either can't make support payments or who desperately need them; as well as the many issues poverty introduces that impact child support in general and children in particular.
- 5) Delegate McQuigg – Pursue more of the deviation factors that potentially change child support payments. Specific factors were not cited, but it was noted that the 2002 Guideline Review Panel reviewed this issue and listed eighteen factors. This Panel may wish to revisit and discuss.
- 6) Mr. Ingalls – A discussion regarding shared custody child support.
- 7) Mr. Byrd – A minor proposal: Should a one-time income windfall count as income, highlighting the larger issue of recurring vs. non-recurring income.
- 8) Mr. Byrd – Proposal to change section 108.1 (B) of the Code of Virginia. Revisit the idea of making support retroactive to the date of service on the respondent. Should this be a mandate, or at the discretion of the Court? Would such discretion invite judicial inconsistency? Perhaps change the language to allow for the consideration of non-direct payments during the time period?
- 9) Mr. Crane – What, exactly, should child support cover, or to repeat a question from a previous Panel: what is child support [or what should child support be]? If the Panel could determine an answer, the Guideline and other issues may be easier to resolve.
- 10) Delegate McQuigg – When the low income portion of the Guideline is discussed, raise the issue of interest charged on delinquent accounts [which also raises the issues of arrears in general, and the potential elimination of bad debts].

Having no other business before the Panel, Chairman Quayle declared the meeting adjourned at approximately 2:30 p.m.

Minutes respectfully submitted

A handwritten signature in black ink, appearing to read "Joseph S. Crane". The script is cursive and fluid.

Joseph S. Crane  
DCSE Staff Director